

Minutes of the New Jersey Health Care Facilities Financing Authority meeting held on November 15, 2007 on the fourth floor of Building #4, Station Plaza, 22 South Clinton Avenue, Trenton, New Jersey.

The following **Authority Members** were in attendance:

Fred M. Jacobs, Commissioner of Health and Senior Services (Chair); Moshe Cohen, Public Member; Ulysses Lee, Public Member (via telephone); Maryann Kralik, Designee of the Commissioner of Banking and Insurance; and Eileen Stokley, Designee of the Commissioner of Human Services.

The following **Authority staff members** were in attendance:

Mark Hopkins, Dennis Hancock, Jim VanWart, Steve Fillebrown, Suzanne Walton, Susan Tonry, Lou George, Bill McLaughlin, Mae Jeffries-Grant, and Stephanie Bilovsky.

The following **representatives from State offices and/or the public** were in attendance:

Edward Tetelman, Department of Health and Senior Services; Bob Palermo, John Doll, Meridian Health System; Joseph Dobosh, Warren Moore, Children's Specialized Hospital; Ron Haase, Banc of America Public Capital Corp.; John Draikiwicz, Gibbons P.C.; Terry Dermody, Business and Governmental Insurance Agency; James Lawler, Vivek Garapalli, IJKG, LLC; Ruth Dugan, Dan Kane, Howard Levine, Bayonne Medical Center; Harriet Rubenstein, Health Professionals and Allied Employees; Shane Fleming, Capital Health System; Danielle Cheung, JPMorganChase; Scott Kobler, McCarter & English; Kay Fern, Evergreen Financial Services; Maryann Kicenuik, Windels Marx Lane & Mittendorf; Joan Marron, UBS; Sharon Price-Cates, Governor's Authorities Unit; and, Cliff Rones, Deputy Attorney General.

## ***CALL TO ORDER***

Dr. Jacobs called the meeting to order at 10:10 a.m. and announced that this was a regular meeting of the Authority, held in accordance with the schedule adopted at the May 24, 2007 Authority meeting. Complying with the Open Public Meetings Act and the Authority's By-laws, notice of this meeting was delivered to all newspapers with mailboxes at the Statehouse, including *The Star-Ledger* and the *Courier Post*, enough in advance to permit the publication of an announcement at least 48 hours before the meeting.

## ***APPROVAL OF MINUTES***

### ***A. September 27, 2007 Authority Meeting***

Revised minutes for the Authority's September 27, 2007 Authority meeting were distributed for review and approval. Dr. Cohen offered a motion to approve the minutes; Ms. Stokley seconded. The vote was unanimous, the motion carried, and the minutes approved.

***B. October 19, 2007 Special Meeting***

Minutes for the Authority's October 19, 2007 special meeting were distributed for review and approval. Ms. Stokley offered a motion to approve the minutes; Ms. Kralik seconded. The vote was unanimous, the motion carried, and the minutes approved.

***C. October 25, 2007 Authority Meeting***

Minutes for the Authority's October 19, 2007 Authority meeting were distributed for review and approval. Ms. Stokley offered a motion to approve the minutes; Ms. Kralik seconded. The vote was unanimous, the motion carried, and the minutes approved.

***D. November 2, 2007 Special Meeting***

Minutes for the Authority's November 2, 2007 special meeting were distributed for review and approval. Dr. Cohen offered a motion to approve the minutes; Mr. Lee seconded. The vote was unanimous, the motion carried, and the minutes approved.

***TEFRA HEARING & CONTINGENT BOND SALE***

Dr. Jacobs announced that, as required by the Tax Reform Act of 1986, the following portion of today's meeting will be considered a public hearing in connection with proposed transactions on behalf of Meridian Health System and Children's Specialized Hospital.

***A. Meridian Health System***

Lou George introduced Bob Palermo Vice President, Finance and John Doll, Director of Finance at Meridian Health System. Following the introduction, Mr. George informed the Members that today he would be requesting approval of a contingent sale of bonds on behalf of Meridian Hospitals Corporation in an amount not to exceed \$258 million.

Mr. George stated that the proceeds of the bonds, together with hospital equity, will be used to finance the constructing and equipping of an approximately 213,000 square foot building (the "Northwest Pavilion") on the campus of Jersey Shore University Medical Center consisting of a new emergency department and trauma center, three new nursing units, an additional 36-bed shell space for future capacity needs, and connection to a new atrium lobby and patient entrance. Proceeds of the bonds, together with hospital equity, will also be used to construct and equip an approximately 109,000 square foot diagnostic and treatment building consisting of six new surgery suites, a new kitchen and dining area and loading dock, and a new sterile processing department, as well as to renovate, expand and upgrade existing clinical and outpatient areas including the outpatient pavilion in the existing ambulatory care center and emergency department, inpatient areas, including the addition of six pediatric beds and eleven maternity beds, the neonatal intensive care unit, including thirteen additional bassinets, two new electrophysiology procedure rooms, a new cardiac catheterization suite, and expanded and enhanced radiology, pharmacy and laboratory departments. Finally, bond proceeds and hospital equity will also be used to acquire major moveable equipment including a new MRI, CT scanner and diagnostic imaging equipment, and pay capitalized interest on a portion of the Series 2007 bonds, as well as costs of issuance.

Mr. George noted that the Series 2007 bonds will be sold as a public offering of multi-modal bonds, initially issued as Auction Rate Securities. They will be insured by Assured

Guaranty resulting in “AAA” ratings from Standard & Poor’s, Moody’s and Fitch. Neither the system nor the hospital corporation has underlying ratings.

It is anticipated that the bonds will be sold in a minimum of five separate tranches, with each tranche initially being issued in a 7 or 35-day auction period or another authorized auction period that will be determined closer to the time of pricing.

### **BOND RESOLUTION**

Maryann Kicenuik, Esq., of Windels Marx Lane & Mittendorf, LLP stated that the Bond Resolution authorizes the issuance of the tax-exempt Series 2007 Bonds in an aggregate principal amount, exclusive of original discount, not in excess of \$258,000,000, at an interest cost not to initially exceed 6% and an Underwriter’s Discount not to exceed \$4.00 per \$1,000 of Series 2007 Bonds. The Series 2007 bonds will have a final maturity date of no later than July 1, 2042 and the Redemption price on the Bonds will not exceed 105%. The Series 2007 Bonds are payable from payments to be made by Meridian Hospitals Corporation under a Loan Agreement together with investment income held by the Trustee under the Trust Agreement. The obligation to repay the loan will be evidenced by a Note issued pursuant to a Master Trust Indenture and Supplemental Indenture, which Note will be secured by a pledge of gross receipts from the members of the obligated group.

In addition, the Bond Resolution approves the form of and authorizes the execution of a Bond Purchase Contract prior to close of business on February 27, 2008. The Bond Resolution also approves the form of the Bonds, Preliminary Official Statement, Official Statement, Loan Agreement, the Trust Agreement and the Broker-Dealer Agreement. The Bond Resolution also appoints The Bank of New York as Trustee, Bond Registrar, Paying Agent and Tender Agent for the Series 2007 Bonds and UBS Securities LLC as the Broker-Dealer for the bonds. In addition, it authorizes the Authorized Officers to execute and deliver such other documents and to take such other action as may be necessary or appropriate to effectuate the execution and delivery of the Loan Agreement, the Bond Purchase Contract and the issuance and sale of the Series 2007 Bonds.

Dr. Jacobs asked the Members’ pleasure with respect to the adoption of the Bond Resolution. Ms. Stokley moved that the document be approved. Ms. Kralik seconded. The vote was unanimous and the motion carried.

### **AB RESOLUTION NO. HH-71**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the Bond Resolution entitled, “A RESOLUTION AUTHORIZING THE ISSUANCE OF NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY REVENUE BONDS, MERIDIAN HEALTH SYSTEM OBLIGATED GROUP ISSUE, SERIES 2007.”

Dr. Jacobs noted that Meridian requested an expedited review of the minutes reflecting this portion of the meeting. Ms. Stokley offered a motion to authorize the Assistant Secretary to execute a certified copy of minutes from this portion of the meeting to be forwarded to the Governor for his advanced consideration of these actions, Dr. Cohen seconded. The vote was unanimous and the motion carried.

Mr. Palermo thanked the Authority noting that this project was under a tight time-line and the working group did a tremendous job getting it to this point in that time frame. He thanked

the staff and Members for their continued support and efficiency. Dr. Jacobs wished Meridian luck with the sale.

***B. Children's Specialized Hospital – Equipment Revenue Note Program***

Suzanne Walton indicated that today she was seeking the Board's approval of the sale of an Equipment Revenue Note on behalf of Children's Specialized Hospital. In order to qualify for financing through the Program, the financing must be for less than \$15 million, proceeds can be used only for equipment and minor installation costs, and the issue must be unrated. Financings under the program have received approval to be completed as negotiated private placements and, therefore, no underwriters are needed for the transactions.

Children's Specialized Hospital, an affiliate member of the Robert Wood Johnson Health System, is the largest pediatric rehabilitation hospital in the United States. The Hospital currently operates in seven locations: Mountainside, their main campus; two facilities in Fanwood; two facilities in Toms River; Roselle Park; Hamilton, Newark, and New Brunswick, New Jersey.

The Hospital would like to issue a \$3,600,000 Equipment Revenue Note to finance the purchase of a fully integrated Hospital information system including software and installation costs and to pay costs of issuance. The Note will be privately placed with Bank of America Public Capital Corp and will be secured by a first lien on the equipment being financed. The term sheet offered by Banc of America establishes an interest rate of 3.92% and requires the Note to be repaid in consecutive monthly installments of principal and interest over a 60-month period. Banc of America will provide the Authority with a traveling investor letter with respect to the issuance and sale of the Note.

***NOTE RESOLUTION***

John Draikiwicz, Esq. of Gibbons P.C. stated that the Note Resolution authorizes the issuance of an Equipment Revenue Note in the amount of \$3,600,000 prior to or by the close of business on February 29, 2008. As stated by Ms. Walton, the Note will carry an interest rate of 3.92% per annum and shall mature on the date that is not later than sixty (60) months following the date of issuance. The Note shall be subject to prepayment as set forth in the form of Note appearing as an appendix to the Master Financing Agreement Terms.

The Note Resolution approves the form of the Note, the Master Financing Agreement Terms, including Schedule 1 which incorporates the terms of this loan and an Escrow Agreement. In addition, the Resolution states that the revenues derived by the Authority pursuant to the Master Financing Agreement shall be paid directly to the Noteholder and applied to the payment of principal and interest on the Note when due. Finally, the Note Resolution authorizes and directs the Authorized Officers to execute and deliver such other documents and to take such other action as may be necessary or appropriate in order to effectuate the execution and delivery of the Agreement and the issuance and sale of the Note.

Dr. Jacobs asked the Members' pleasure with respect to the adoption of the Note Resolution. Ms. Stokley moved that the document be approved. Mr. Lee seconded. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. HH-72**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the Note Resolution entitled, “A RESOLUTION PROVIDING FOR THE ISSUANCE OF A NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY EQUIPMENT REVENUE NOTE, CHILDREN’S SPECIALIZED HOSPITAL, SERIES 2007 IN AN AMOUNT EQUAL TO \$3,600,000.”

Mr. Dobosh thanked the Authority staff and Members for their help in approving this transaction. Dr. Jacobs wished them luck with the sale and then closed the public hearing required by the Tax Reform Act of 1986 on behalf of Meridian Health System and Children’s Specialized Hospital.

***NEGOTIATED SALE REQUEST***

***Equipment Revenue Note Program***

Dr. Jacobs stated that the Authority’s Equipment Revenue Note (“ERN”) Program offers borrowers a quick turn around for financings of no greater than \$15 million, in which the proceeds will only be used to acquire equipment or to retrofit a facility for equipment. One of the factors contributing to the quick turnaround is that the Authority annually approves the private placement method of sale for all projects fitting the program’s criteria.

Dr. Cohen asked why this has to be approved annually, to which Dennis Hancock stated that Executive Order No. 26 (Whitman) allows for authorities to approve a structure on a program- or group- basis but requires that the structure be approved for that program or group annually. This is likely required to ensure that program structures remain consistent from year to year as do their respective justifications. The ERN is the Authority’s only program that participates in such annual approval.

Ms. Stokley moved to adopt the annual resolution approving the pursuit of a negotiated sale private placement for transactions issued through the Authority’s ERN Program through November 2008, Ms. Kralik seconded. The vote was unanimous and the motion carried.

**AB RESOLUTION NO. HH-73**

*(attached)*

***AMENDMENT TO LOAN AGREEMENT***

***Capital Health System***

Mark Hopkins reported to the Members that Capital Health System (“Capital”) submitted a request for an amendment to its loan agreement under its currently existing bond documents which secure bonds issued in 2003 by the Authority. Mr. Hopkins then introduced Shane Fleming (Director of Finance for Capital), and Kay Fern (from Evergreen Financial serving as Capital’s financial advisor).

The loan agreement currently requires that Capital obtain an “investment grade” or “secure” rating, from a nationally recognized rating agency, for the captive insurance company that provides its medical malpractice insurance. Capital would like to amend the loan agreement to require only certifications regarding the adequacy of its captive insurance from its management and insurance consultant. This request is consistent with the resolution passed by

the Authority in June of this year eliminating the requirement for an A.M. Best rating on a borrower's captive insurance company. The amendment to the loan agreement is, however, still required in this instance because, unlike some other borrowers' bond documents, the requirement for the rating was contained in the loan agreement itself.

The draft loan agreement amendment and draft opinion of bond counsel were provided to the Authority Members in advance of this meeting. In reliance on bond counsel's opinion that this amendment does not adversely affect the rights of the bondholders, staff recommended approving the amendment to Capital's loan agreement.

Ms. Stokley asked about the purpose of Section 8.3 in the loan agreement, to which it was replied that the section in question allows for an amendment as long as the amendment does not adversely affect the rights of the bondholders. Mr. Roness asked if counsel had provided an opinion stating such, and Ms. Kicenuik confirmed that Windels Marx Lane and Mittendorf had provided the opinion. Mr. Roness looked it over and had no objection.

Ms. Stokley moved to approve the requested amendment; Mr. Lee seconded. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. HH-74**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves the "AMENDMENT TO LOAN AGREEMENT BETWEEN NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY AND CAPITAL HEALTH SYSTEM, INC." (*attached*)

#### ***LOAN DEADLINE EXTENSION REQUEST***

##### ***Bayonne Medical Center***

Mr. Hopkins began by introducing James Lawler and Vivek Garapalli, principals at IJKG, LLC ("IJKG"). He also introduced Ruth Dugan, Chair of the Board of Bayonne Medical Center ("BMC") and Dan Kane, CEO of the hospital, as well as Harriet Rubenstein of the Health Professionals and Allied Employees union. Mr. Hopkins then reminded the Members that on October 19<sup>th</sup>, the Authority approved a \$2.5 million loan to BMC. The loan was conditioned, among other things, upon: the bankruptcy court identifying a purchaser for the facility by October 26<sup>th</sup>; the purchaser providing sufficient evidence of its capitalization for the transaction; and the Authority's receipt of sufficient security. When the bankruptcy auction was prolonged, the Authority extended its purchaser identification deadline to no later than November 16<sup>th</sup>, 2007.

On November 1<sup>st</sup>, the court identified Urban Suburban Associates, LLC ("Urban Suburban") as the purchaser, over a competing bid by IJKG. Part of Urban Suburban's bid included a \$2.25 million cash deposit into BMC's account on November 2<sup>nd</sup>. When Urban Suburban failed to make this deposit, the court awarded the winning bid to the second bidder, IJKG, contingent upon satisfactory evidence of commitments for the capitalization of the purchase price and projected early operational shortfalls.

The court stated that, in considering whether IJKG meets the court's contingencies, it will rely heavily on the Authority's willingness to fund its \$2.5 million loan. Further, the Authority's loan will be a major determining factor for BMC's ability to secure a \$6 million loan from the City of Bayonne. Both loans are needed to continue operations until the facility's purchase.

In order to give IJKG time to firm up its funding commitments and for the Authority to sufficiently assess the adequacy of those commitments, the court scheduled a hearing for

November 27th to hear input on the adequacy of IJKG's commitments and the Authority's willingness to lend the funds. Therefore, staff is requesting the Members consider approving an extension of the Authority's loan authorization deadline to November 27th, 2007, the date of that hearing. Staff is also requesting that the Authority Members delegate to the Executive Director the ability to rescind its authorization for the loan at any time between now and November 27th based on his determination that it has become clear that there will not be sufficient capital commitments necessary to complete the acquisition of BMC by IJKG or sufficient capital commitments required to fund the projected early operational cash deficits of the hospital.

Mr. Hopkins noted that the recommendations proposed today are based on materials received from IJKG yesterday. He reminded the Members that there are two considerations when reviewing IJKG as an adequate borrower: 1) IJKG's level of commitment received to fund the acquisition of the facility, and 2) IJKG's level of commitment to fund the ongoing operations of the facility thereafter.

At this point, Steve Fillebrown stated that IJKG is projecting a \$10.7 million cash loss during the first four months of operations. This would be covered by \$3.3 million in cash reserves and \$7.4 million from an accounts receivable line of credit. He added that IJKG currently has three bidders interested in providing that line of credit.

Dr. Cohen asked from where the funds for operations are currently coming, to which it was replied that BMC is operating from an advance of its charity care reimbursement granted by the Department of Health and Senior Services for \$3 million. Mr. Hopkins noted that BMC also is operating on proceeds from the Kimco debtor-in-possession loan, secured by the hospital's property.

Deputy Attorney General Cliff Rones noted that he reviewed the commitment documents from IJKG, which include an assumption of the Kimco line of credit. He noted that, while the documents would stand as an actual commitment letter once signed and properly formulated, at this point, he has concerns with the lack of formality of these documents, including the appearance of a "DRAFT" stamp. He noted that while the format seems reasonable, several issues remain to be worked out before these documents would be considered satisfactorily binding.

Mr. Hopkins commended IJKG for doing a tremendous job to receive the level of commitments they did. He noted that the primary concern now is whether or not there would be adequate funds to keep the hospital operating for more than just five or six months in Bayonne following the acquisition. Such a short time of prolonged operation will not meet the concerns of providing health care services and jobs in the community.

Mr. Rones addressed the representatives of IJKG asking if IJKG has satisfied Kimco's requirement for cash equity, which had been lowered from \$5 million to \$3.75 million. Mr. Garapalli went on to explain the history stating that originally Kimco was skeptical of any purchaser, however, IJKG has spent two months working with Kimco to show them IJKG's plans for operations, projections and the team who would be transitioning BMC into a financially viable health care provider, including month by month plans and week by week plans.

Mr. Rones commended that work, but again questioned the status of the \$3.75 million equity requirement. Mr. Garapalli noted that, in IJKG's mind, that requirement was satisfied last week and remains so today. He added that the 80% level of commitment required by Authority staff is met through the attainment of \$14.5 million from Kimco and \$2.5 million from this Authority. Mr. Garapalli suggested that the Authority let Judge Stern of the bankruptcy court determine IJKG's adequacy for capitalization. Mr. Hopkins and Mr. Rones reminded the

attendees that, since the funds would be from the Authority's fund balance, the Authority Members must feel comfortable with IJKG's financing commitments before approving the loan.

Mr. Garapalli stated that further delays to this loan create large hurdles for the borrower and the community and began to suggest that the Authority grant its unconditional approval of the loan today, however, Dr. Jacobs stood by staff's recommendations and stated that the only offer on the table today is one to extend the deadline by which the Authority can decide to approve or decline the loan to BMC.

Mr. Hopkins agreed that IJKG did a commendable job demonstrating that 80% of the purchase price would be in place as required; however, he added that Kimco's commitment had a lot of blanks that may have a hard time standing up in a court of law. Still, he noted, the Authority accepts this commitment as part of IJKG's 80%. He reiterated that the Authority must feel comfortable that issuing the loan will be consistent with its mission and policy to help keep hospitals operating in places where they are needed. If the hospital would not be able to maintain ongoing operations, the loaning of these funds fails in this mission. Mr. Hopkins continued to assert that the Authority's likelihood to fund the loan November 27<sup>th</sup> would rely heavily on the firmness of the commitment IJKG receives for the \$10 million accounts receivable loan. It is clear from IJKG's projections that the hospital cannot operate beyond four months without that \$10 million.

Mr. Ronces asked if IJKG considered any of the documents presented for review to be a final commitment for an accounts receivable financing. Mr. Garapalli stated no, adding that while all three lenders are experienced health care lenders, it is very difficult to get a three week turnaround for a \$10 million accounts receivable line. He noted that, as of today, the BMC facility has sufficient accounts receivable collateral to secure the loan, however, due to the time constraint, there is a possibility that IJKG may not be able to secure the required loan in the required timeframe. He asked, then, if the Authority would deny the \$2.5 million loan if IJKG was near, but not finalized with, the \$10 million accounts receivable loan on November 27<sup>th</sup>.

Dr. Jacobs returned to the point that the only matter of discussion today was staff's recommendation for an extension to the Authority's loan authorization deadline. He noted that further work and discussions will need to be held in order to determine the viability of the loan. At this meeting, the only information that BMC will be able to receive is whether or not the Authority will extend the deadline by which it can authorize or decline the loan to BMC.

Mr. Kane stated that he is happy to hear that Mr. Hopkins and the Authority are willing to further consider working with, and issuing the loan to, BMC.

Dr. Cohen moved to approve staff's recommendations regarding the potential loan to BMC; Mr. Lee seconded. Dr. Jacobs voted yes; Dr. Cohen voted yes; Mr. Lee voted yes; Ms. Kralik abstained; and Ms. Stokley voted yes. The motion carried.

#### **AB RESOLUTION NO. HH-75**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby amends the "RESOLUTION AUTHORIZING A LOAN FROM THE NEW JERSEY HEALTH CARE FACILITIES FUND BALANCE TO BAYONNE MEDICAL CENTER" (*attached as the updated amended version*) to reflect that the Authority hereby extends the deadline for the loan's authorization until November 27, 2007



### **Expedited Review**

Dr. Jacobs stated that staff requests an expedited review of this portion of the minutes. Ms. Stokley then made a motion authorizing the Assistant Secretary to execute a certified copy of minutes from the portion of the meeting to be forwarded to the Governor for his consideration of these actions; Dr. Cohen seconded. The vote was unanimous and the motion carried.

### ***DIRECTOR'S & OFFICERS LIABILITY RENEWAL***

Jim Van Wart reminded the Members that the Authority's \$20 million Directors & Officers Liability ("D & O") policy, which is provided through National Union Fire Ins. Co. of Pittsburgh, PA ("AIG"), expires on December 18, 2007. The expiring policy was a one-year policy with a premium of \$104,471 and a NJ surcharge of \$1,672. The Retention level on the expiring policy is \$250,000. D & O coverage provides protection to past, present and future Members of the Authority, committee members, officers and staff.

Mr. Van Wart reported that the Authority's insurance broker, Business and Governmental Insurance Agency, approached seven insurance carriers with regard to a new policy. Mr. Van Wart reported that AIG, the present insurer, was the only insurer to provide premium quotes on a \$20 million level of coverage with a lower retention level than the Authority currently has. AIG offered a \$20 million policy with a retention level of \$175,000 for an annual premium of \$83,406, plus a New Jersey surcharge of \$1,168 for a total of \$84,574.

Mr. Van Wart reported staff feels comfortable with the proposal from AIG, noting that it represents a decrease of \$21,569 from the expiring policy while not losing any coverage and lowering the retention level to \$175,000. AIG has a rating from A.M. Best Company of "A+ (Superior) Class XV," which is the highest rating one can receive from A.M. Best Company.

Dr. Cohen noted that he had expressed an interest in D & O coverage going beyond the \$20 million limit since the Authority's business involves transactions well beyond that liability limit. He acknowledged that, according to the insurance companies contacted, it seems that such coverage is difficult to obtain. He asked if the insurance broker solicited any information for rates on a higher limit than \$20 million. Mr. Dermody replied that such a request hadn't been made to him by Authority staff. Dr. Cohen stated that he would like the broker to investigate options for a higher limit, not ruling out options such as reinsurance and self-insurance, as well.

Since the Authority's current policy expires shortly, Mr. Van Wart recommended that the Members approve the proposed AIG policy and direct the broker to investigate the higher limit policy options going forward. Dr. Cohen agreed.

Dr. Cohen then asked about coverage for Members after their tenure is finished, to which Mr. Dermody stated that Members are covered for as long as the policy is continued. If the Authority chooses to use another insurer at some point, there is a 3-year tail that can be purchased to extend the coverage.

Ms. Stokley offered a motion to approve renewing the D & O coverage under AIG as recommended by staff; Ms. Kralik seconded. The vote was unanimous and the motion carried.

### **AB RESOLUTION NO. GG-76**

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves renewing its Directors and Officers Liability policy with National Union Fire Ins. Co. of Pittsburgh, PA (AIG) at a \$175,000 retention level with a \$20 million limit of liability, for an annual premium of \$83,406, plus a New Jersey surcharge of \$1,168 for a total of \$84,574.

Mr. Hopkins noted at this point that the Authority's statute does allow the Authority to be sued; however, it does not permit the Members to be subject to personal liability. Dr. Cohen noted, though, that if that description is adequately binding, it shouldn't be difficult to get coverage for a limit higher than \$20 million. The fact that such coverage seems to be difficult to get insinuates that insurers may be skeptical as to the solidity of that statutory matter. Mr. Hopkins agreed that it is worth investigating higher coverage limits.

#### ***AUTHORITY EXPENSES***

Dr. Jacobs referenced a summary of Authority expenses and invoices. Dr. Cohen offered a motion to approve the bills and to authorize their payment; Ms. Kralik seconded. The vote was unanimous and the motion carried.

#### **AB RESOLUTION NO. HH-77**

**WHEREAS**, the Authority has reviewed memoranda dated November 8, 2007, summarizing all expenses incurred by the Authority in connection with FHA Mortgage Servicing, Trustee/Escrow Agent/Paying Agent fees, and general operating expenses in the amounts of \$661,123.95, \$5,599.00 and \$36,097.95 respectively, and has found such expenses to be appropriate;

**NOW, THEREFORE, BE IT RESOLVED**, that the Authority hereby approves all expenses as submitted and authorizes the execution of checks representing the payment thereof.

#### ***OLD/NEW BUSINESS***

##### ***Resolution of Appreciation – Fred M. Jacobs, M.D., J.D.***

Dr. Jacobs reminded the Members that, as a result of his resignation as Commissioner of Health and Senior Services this will be his last meeting with the Authority. At this point, Mr. Hopkins stated that he is sad but honored to read a Resolution of Appreciation on Dr. Jacobs' behalf. First, though, he noted that it had been a tremendous pleasure to work with the Commissioner and that he was proud of the experience they had together, adding that he learned greatly from the Commissioner. He stated that Dr. Jacobs' benefited the Authority greatly during his tenure. Then he read the Resolution of Appreciation on Dr. Jacobs' behalf, prepared by staff. The Members (excluding Dr. Jacobs) unanimously moved, seconded and voted for the motion.

#### **AB RESOLUTION NO. HH-78**

*(attached)*

Dr. Jacobs said that it had been a great pleasure for him to work with the Authority, one that was very rewarding. Prior to his service with the Department of Health and Senior Services, he had very little knowledge of the Authority's business, however, he learned greatly from Mark Hopkins, Steve Fillebrown and the Members of the Authority. He added that he will treasure his time here because of its positive influence on the improvement of New Jersey health care and health care facilities. The Authority's work, with the *Commission on Rationalizing New Jersey's Health Care Resources* and with its own mission, proved to be absolutely invaluable and essential for the betterment of New Jersey's struggling hospitals. He finished by thanking the Members and staff for the Resolution, stating that it is a great honor, one that he very much appreciates.

### **STAFF REPORTS**

Dr. Jacobs thanked staff for their preparation of reports that were distributed for review, including the Project Development Summary, Cash Flow Statement, and a Legislative Advisory. Mr. Hopkins announced the following items in his Executive Director's Report:

1. The *Commission on Rationalizing New Jersey's Health Care Resources* held meetings at the Authority offices on November 9th and 13th. Its next meeting will be Tuesday, November 20th. Its final report is expected in December. [It was later learned that the Commission's next meeting will be held on Monday November 26, 2007.]
2. In hospital news, Bill Phillips, CFO of Meridian Health Systems, has announced his upcoming retirement. John Gantner, who is currently CFO at Robert Wood Johnson University Hospital, will become CFO of Meridian upon Mr. Phillips retirement.

### **EXECUTIVE SESSION**

At this point, Dr. Jacobs asked the Members to meet in Executive Session to discuss Authority staff salaries and benefits as a matter related to personnel, as permitted by the Open Public Meetings Act and the Authority's By-Laws. Mr. Hopkins added that he would also like to discuss contractual negotiations related to Bayonne Medical Center. Ms Stokley moved to meet in Executive Session for these purposes; Ms. Kralik seconded it. The vote was unanimous and the motion carried.

### **AB RESOLUTION NO. HH-79**

**NOW, THEREFORE, BE IT RESOLVED**, that, as permitted by the Open Public Meetings Act and the Authority's By-Laws, the Authority meet in Executive Session to discuss Authority staff salaries and benefits as a matter related to personnel, and to discuss contractual negotiations related to Bayonne Medical Center,

**BE IT FURTHER RESOLVED**, that the results of discussions may be made known at such time as the need for confidentiality no longer exists.

Public session reconvened and Dr. Jacobs reported that, during Executive Session, the Members were presented with a detailed description of staff salaries and benefits, consistent with the budget and general description of salaries and benefits already approved at the Authority's last meeting.

Dr. Cohen stated that he had a few points he wished to address. First of all, in view of the meltdown in the credit market and the deterioration of the risk profile among New Jersey's hospitals, he was concerned about the Authority's future projects "in the pipeline" and whether or not they might stumble and cause problems for the 2008 budget. He stated that he talked to Michael Ittleton, the Authority's Controller, who stated that there seems to be no problem with projects that are expected in the future. He noted, though, that he would like the Members to be informed if the projected landscape changes.

Secondly, he added that, in times such as these, the Authority may see more borrowers refunding less costly financings for higher interest rates in refinancings. Warren Hospital was given as an example. He stated that he would like staff to be sure to inform Members when this is the case and also, if possible, tell the Members how much of a dollar increase the change in interest rate will create for the borrower in a situation such as this.

Lastly, he noted that, with respect to underwriting, the Authority has been in discussion on ensuring the ability of women- and minority-owned firms to be included in the pool of potential underwriters. Dr. Cohen wanted to advise, on the record, that a borrower or a community can be negatively affected by an inexperienced underwriter. He wanted to be sure the Authority considers the importance of having an effective underwriter and does not sacrifice that in order to promote the use of lesser used firms. He clarified that he is not saying that women- or minority-owned (or small) businesses are less effective. He just wanted to remind the Members and staff to consider this angle as well when drafting the Authority policy regarding these firms.

Mr. Tetelman noted that, in the past, when the Authority's policy stressed the use of such firms, it was found that the smaller women- and minority-owned firms performed just as well in the marketplace. Mr. Hopkins agreed. Dr. Cohen said that he didn't expect the result to be any different than that, he just didn't want that consideration to be ignored when drafting Authority policy.

As there was no further business to be addressed, Ms. Stokley moved to adjourn the meeting, Ms. Kralik seconded. The vote was unanimous, and the motion carried at 11:30 a.m.

I HEREBY CERTIFY THAT THE  
FOREGOING IS A TRUE COPY OF  
MINUTES OF THE NEW JERSEY  
HEALTH CARE FACILITIES  
FINANCING AUTHORITY MEETING  
HELD ON NOVEMBER 15, 2007.

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Dennis Hancock  
Assistant Secretary

**AB RESOLUTION NO. HH-73\_**

**RESOLUTION OF INTENT TO ISSUE REVENUE BONDS BY  
NEGOTIATED TRANSACTION PURSUANT TO  
EXECUTIVE ORDER NO. 26**

**Equipment Revenue Note Program**

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**WHEREAS**, the New Jersey Health Care Facilities Financing Authority (the “Authority”) was duly created and now exists under the New Jersey Health Care Facilities Financing Authority Law, P.L. 1972, c. 29, N.J.S.A. 26:2I-1 et seq., as amended (the “Act”), for the purpose of ensuring that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the State; and,

**WHEREAS**, the Authority issues its bonds from time to time for the achievement of its authorized purposes; and

**WHEREAS**, on October 25, 1994, the Governor issued Executive Order No. 26 which sets forth procedures by which an issuer may determine the method of sale of bonds or notes; and,

**WHEREAS**, on December 8, 1994, the Authority adopted Section 2 of its policy which was developed to implement Executive Order No. 26, which requires an Authority resolution to pursue a negotiated sale of bonds; and,

**WHEREAS**, on March 28, 1996, the Authority amended its policy related to Executive Order No. 26; and,

**WHEREAS**, the Authority’s policy states that a negotiated sale of bonds will be conducted if it is determined by the Authority that it would better serve the requirements of a particular financing; and,

**WHEREAS**, a negotiated transaction would be permitted in circumstances including, but not limited to, the sale of bonds for a complex or poor credit; the development of a complex financing structure, including those transactions that involve the simultaneous sale of more than one series with each series structured differently; volatile market conditions; large issue size; programs or financial techniques that are new to investors; or, for variable rate transactions; and,

**WHEREAS**, the Authority’s policy provides that the Authority may make determinations with respect to the method of sale, which will be utilized for two or more transactions, providing that the transactions are a part of a larger bonding program of similar issues; and,

**WHEREAS**, the Authority wishes to improve the efficiency of issuing bonds through its Equipment Revenue Note Program; and,

**WHEREAS**, financings completed through the Equipment Revenue Note Program must meet the following criteria: 1) the proceeds will only be used to acquire equipment or retrofit space to house equipment, 2) the bond-size does not exceed \$15,000,000, and 3) the bonds are not publicly rated or credit-enhanced; and,

**WHEREAS**, financings meeting these criteria would generally be considered complex credits and would not benefit from a public offering; and,

**WHEREAS**, on October 23, 2003, the Authority initially approved the use of negotiated private placements for financings done through the Equipment Revenue Note Program by a resolution that must be renewed on a yearly basis; and,

**WHEREAS**, on November 21, 2006, the Authority reapproved the use of negotiated private placements for financings done through the Equipment Revenue Note Program by a resolution that must be renewed on a yearly basis; and,

**WHEREAS**, the resolution and justification in support of such resolution must be filed, within five days of its adoption, with the State Treasurer;

**NOW, THEREFORE, BE IT RESOLVED**, that, based upon the above findings, the Authority hereby determines that it would better serve the requirements of Financings instituted under the Equipment Revenue Note Program, through the end of 2008, to conduct a negotiated sale on a private placement basis; and,

**BE IT FURTHER RESOLVED**, that the Executive Director is hereby directed and authorized to transmit a copy of this Resolution and justification in support of such resolution to the State Treasurer.

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AMENDMENT TO LOAN AGREEMENT

Between

NEW JERSEY HEALTH CARE FACILITIES FINANCING AUTHORITY

and

CAPITAL HEALTH SYSTEM, INC.

DATED AS OF DECEMBER 1, 2003

DATED AS OF DECEMBER 1, 2007

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**AMENDMENT TO LOAN AGREEMENT DATED AS OF DECEMBER 1, 2003  
BY AND BETWEEN THE NEW JERSEY HEALTH CARE FACILITIES  
FINANCING AUTHORITY AND CAPITAL HEALTH SYSTEM, INC.**

This Amendment to the Loan Agreement Dated As Of December 1, 2003 (the **“Original Agreement”**) by and between the New Jersey Health Care Facilities Financing Authority (the **“Authority”**), a public body corporate and politic and a political subdivision of the State of New Jersey and Capital Health System, Inc. a non-profit corporation, duly incorporated and subsisting under the laws of the State of New Jersey (the **“Hospital”** or the **“Borrower”**) dated as of December 1, 2007 (the **“Amendment”**).

**W I T N E S S E T H:**

**WHEREAS**, the Hospital has obtained financial assistance from the Authority to (i) finances and reimburse the Hospital for the costs of capital renovations to the Hospital’s facilities, (ii) finance and reimburse the Hospital for the costs of capital equipment for the Hospital (iii) fund reasonably required reserves for the Series 2003 Bonds (as hereinafter defined), if required and (iv) pay capitalized interest and certain costs incidental to the issuance and sale of the Series 2003 Bonds, including the costs of credit enhancement for the Series 2003 Bonds (the **“Project”**);

**WHEREAS**, the Authority to accomplish the purposes of the Act, has provided funds to the Hospital for the Project;

**WHEREAS**, the Authority and the Hospital have entered into the Original Agreement in connection with the Series 2003 Bonds wherein the Authority has loaned the proceeds of the Series 2003 Bonds to the Hospital and wherein the Hospital has agreed to, among other things, make certain loan payments to the Authority, all as set forth in the Original Agreement;

**WHEREAS**, the Authority has issued its \$101,560,000 Fixed Rate Revenue Bonds, Capital Health System Obligated Group Issue, Series 2003A (the **“Series 2003A Bonds”**) and its \$30,000,000 Variable Rate Revenue Bonds, Capital Health System Obligated Group Issue, Series 2003B (the **“Series 2003B Bonds”** and collectively with the Series 2003A Bonds, the **“Series 2003 Bonds”**) under and pursuant to separate trust agreements each dated as of December 1, 2003 (each, a **“Trust Agreement”** and collectively, the **“Trust Agreements”**);

**WHEREAS**, the Hospital has requested that the Authority amend paragraphs (d), (e) and (f) of Section 6.11 of the Original Agreement, which paragraphs relate to the requirements imposed by the Authority in connection with the establishment by the Hospital of any captive insurance or self-insurance programs, through execution by the parties of this Amendment to the Original Agreement;

**WHEREAS**, the Hospital has established a captive insurance company program and the Authority has previously approved the form of such program (the **“Accepted Plan”**) subject to the receipt by the Authority, on an annual basis, of certain items including receipt of, among other things, a Qualified Insurance Rating (as defined in the Original Agreement) from A.M. Best Company;



**WHEREAS**, the Authority desires to amend the Original Agreement to incorporate its new policy which allows for other items to be provided by the Hospital if it so wishes, in lieu of a Qualified Insurance Rating;

**WHEREAS**, Section 8.3 of the Original Agreement permits the Hospital and the Authority to amend the Original Agreement if the rights of the Bondholders are not adversely affected;

**WHEREAS**, the Authority has obtained an opinion of Windels Marx Lane & Mittendorf LLP, bond counsel, to the effect that the amendment contemplated hereby will not adversely affect the rights of the Bondholders;

**WHEREAS**, by resolution adopted on November 15, 2007 (the “**November 2007 Resolution**”), the Authority authorized an amendment to the Original Agreement;

**NOW, THEREFORE**, for and in consideration of the premises herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree that the Original Agreement shall be amended as follows:

## ***AMENDMENT TO ORIGINAL AGREEMENT***

### ***Amendment to Section 6.11.***

Section 6.11 of the Original Agreement is hereby amended to delete sections (d), (e) and (f) and to replace such sections in their entirety with the following new sections (d), (e), (f) and (g):

“(d) The Authority has heretofore accepted a certain plan of self-insurance and captive insurance in lieu of the insurance required by Section 6.11(a)(iii) and (iv) hereof (the **“Accepted Plan”**). Upon the written request of the Borrower, the Authority without the consent of the Trustee, may permit modifications to or substitutions for the Accepted Plan or modifications of or substitutions for the other types of insurance required to be maintained by Section 6.11(a), including permission for the Borrower to be self-insured or to have a captive insurance company program in whole or in part for any insurance coverages not the subject of the Accepted Plan, all upon such terms and conditions as the Authority may require. In making its decision to permit such modifications or substitutions, the Authority may consider the availability of insurance, the terms upon which insurance is available, the cost of available insurance, and the effect of such terms and such rates upon the Borrower’s costs and charges for their service. In making any such determinations, the Authority may rely upon a report of an Independent Insurance Consultant chosen by an Authorized Officer of the Authority and paid for by the Borrower. The Authority shall not permit the Borrower to make any modifications or substitutions for any of the insurance required by Section 6.11(a) unless: (i) the Authority has received a written actuarial report addressed to the Authority and the Borrower with respect to such self-insurance or captive insurance company programs from an Independent actuary (not unacceptable to an Authorized Officer of the Authority) specializing in the type of insurance that is the subject of the self-insurance or captive insurance programs in form and substance satisfactory to an Authorized Officer of the Authority; (ii) the Authority shall have received a report from an Independent Insurance Consultant addressed to the Authority and the Borrower to the effect that such self-insurance or captive insurance company program shall not disqualify or materially adversely affect the Borrower for reimbursement under Medicare or Medicaid programs or any governmental programs providing similar benefits or establishing rates and charges for health care services; and (iii) evidence in form acceptable to an Authorized Officer of the Authority that adequate reserves for such programs have been or will be deposited in trust and maintained with an Independent corporate trustee or in the captive insurance company in an amount acceptable to an Authorized Officer of the Authority, which shall be at least equal to the amount required by the actuarial report referred to in clause (i) above. The Borrower shall pay any fees charged by such Independent Insurance Consultant and Independent actuary and any expenses incurred by the Authority. The Authority shall give written notice to the Borrower and to the Trustee of any modifications or substitutions permitted to be made pursuant to this paragraph, and shall indicate in such notice the effective date of such modifications or substitutions. The Authority’s decision to permit the modifications or substitutions aforesaid shall be in the Authority’s sole and absolute discretion.

(e) In the event that the Borrower self-insures or insures through a captive insurance company, including pursuant to the Accepted Plan, the Borrower shall provide to the Authority at the time of commencement of such coverage and annually thereafter (no later than the anniversary date of commencement of such coverage), either

(A) a Qualified Insurance Rating from an Insurance Rating Agency; or

(B) the following items:

(i) a certificate addressed to the Authority and the Borrower from a nationally recognized Independent Insurance Consultant (not unacceptable to an Authorized Officer of the Authority) stating that the types and amounts of coverage provided through the self-insurance trust or captive insurance company are customary and reasonable for institutions of similar type and size, taking into account the service mix provided by the Borrower;

(ii) a certificate addressed to the Authority and the Borrower from an Independent actuary (not unacceptable to an Authorized Officer of the Authority) specializing in the type of insurance that is the subject of the self-insurance or captive insurance programs, certifying that based upon its actuarial study, the reserves on deposit in the captive insurance company or self insurance trust are sufficient for such coverage, and identifying the assumptions that it has relied upon in making its determination (which assumptions shall not be unacceptable to an Authorized Officer of the Authority); and

(iii) an opinion of counsel for the Borrower addressed to the Authority and the Borrower to the effect that the captive insurance company or self insurance trust is in compliance with the laws and regulations of the state and/or country of domicile (the form of which opinion shall not be unacceptable to an Authorized Officer of the Authority); and

(iv) a certificate executed by the Chief Financial Officer of the Borrower stating that the captive insurance company or self insurance plan has been audited by a nationally recognized Independent firm of public accountants and has received an unqualified opinion (the form of which opinion shall not be unacceptable to an Authorized Officer of the Authority).

The provisions of this subsection 6.11(e) are intended by the parties to replace in their entirety the Authority's previous reporting and funding requirements applicable to the Accepted Plan.

(f) In the event that the Borrower self insures or insures through a captive insurance company, including pursuant to the Accepted Plan, and it is not able to provide the

items required by subsection (e) of this Section by the dates required by subsection (e), unless an Authorized Officer of the Authority waives receipt of such item or items in writing, the Borrower shall, within ninety (90) days of the anniversary date of commencement of such coverage, or by such later date approved in writing by an Authorized Officer of the Authority, procure insurance policies from financially sound and reputable insurance companies qualified to do business and in good standing in New Jersey as required under subsection 6.11(a) hereof.

(g) Notwithstanding anything set forth herein to the contrary, the provisions of paragraph (e) of this Section 6.11 may be amended or supplemented by the Authority in its sole and absolute discretion, and without the consent of the Trustee or the Borrower in order that such provisions shall be consistent with the Authority's policies then in effect applicable to self-insurance or captive insurance programs."

**MISCELLANEOUS**

**Ratification of Provisions of the Original Agreement.**

The Original Agreement, as amended by this Amendment, is in all respects ratified and shall remain in full force and effect. The Original Agreement and this Amendment shall be read, taken and construed as one and the same instrument.

**Effective Date.**

This Amendment shall become effective as of the day and year first written above upon execution hereof by the parties hereto.

**Counterparts.**

This Amendment may be executed in two counterparts each of which shall be an original and each of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have each caused this Amendment to be executed by their duly authorized officers as of the date first written above.

Attest:

NEW JERSEY HEALTH CARE  
FACILITIES FINANCING AUTHORITY

By: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Attest:

CAPITAL HEALTH SYSTEM, INC.

By: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

See AB RESOLUTION NO. HH-75\_

**RESOLUTION AUTHORIZING A LOAN FROM THE NEW  
JERSEY HEALTH CARE FACILITIES FUND BALANCE  
TO BAYONNE MEDICAL CENTER**

(approved October 19, 2007 - amended October 25, 2007- amended on November 15, 2007)

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**WHEREAS**, Bayonne Medical Center is in bankruptcy, and

**WHEREAS**, Bayonne Medical Center previously requested that the New Jersey Health Care Facilities Financing Authority provide a \$2,500,000 to help Bayonne Medical Center reach a transaction with a potential purchaser determined through a bankruptcy auction process; and

**WHEREAS**, the Authority is authorized to make loans to health care organizations as defined in the Authority's enabling legislation; and

**WHEREAS**, at a special meeting of the Authority on October 19, 2007 the Authority authorized a \$2.5 million loan to Bayonne Medical Center under certain conditions including an October 26, 2007 deadline by which a purchaser must be identified by the bankruptcy court; and

**WHEREAS**, on October 24, 2007 the bankruptcy court continued the auction date to identify a purchaser for Bayonne Medical Center until October 31, 2007; and

**WHEREAS**, at a regular meeting of the Authority on October 25, 2007 the Authority amended certain conditions upon which the loan would be authorized and extended its deadline for the identification of a purchaser until November 16, 2007; and

**WHEREAS**, on November 1, 2007 the bankruptcy court approved Urban Suburban Associates, LLC as purchaser of Bayonne Medical Center; and

**WHEREAS**, Urban Suburban Associates, LLC failed to timely make the required deposit for the acquisition of Bayonne Medical Center; and

**WHEREAS**, on November 8, 2007 the bankruptcy court conditionally approved the alternate bid of IJKG, LLC to purchase Bayonne Medical Center; and

**WHEREAS**, among the conditions the bankruptcy court placed on final approval of IJKG, LLC's bid is evidence of the sufficiency of its capitalization for the acquisition price and projected operational cash deficits, including the final approval of the loan from the Authority to Bayonne Medical Center; and

**WHEREAS**, the bankruptcy court has given IJKG, LLC until November 27, 2007 to meet those conditions; and

**WHEREAS**, if the sale meets the final approval of the bankruptcy court Bayonne Medical Center will remain in need of additional funds to continue its operations until the transaction with IJKG, LLC can be completed.

**NOW THEREFORE BE IT RESOLVED**, That the Authority hereby authorizes a loan from its fund balance in an amount not to exceed \$2,500,000 to Bayonne Medical Center for a period of not to exceed five years at an interest rate, adjusted monthly, equal to the New Jersey Cash Management Fund interest rate as of the first of each previous month plus 2%, under the following conditions:

**Scenario 1.**

(a) the Authority receives an equal security interest in the mortgage and other security (pari passu) under the debtor-in-possession financing provided by Kimco;

(b) the bankruptcy court identifies a purchaser by Authority established deadline of no later than November 27, 2007;

(c) the purchaser indicates it intends to operate at least a substantial portion of the facility as a health care facility, including emergency services;

(d) the purchaser is acceptable to the Authority, taking into consideration the purchaser's demonstrated ability to capitalize the acquisition of Bayonne Medical Center and the purchaser's demonstrated experience in operating a health care facility; and

(e) there are sufficient funds available, including the Authority's \$2.5 million loan, to continue the operations of Bayonne Medical Center through the projected date of acquisition by the purchaser, (these funds may come from funds provided by the purchaser, or funds provided by the City of Bayonne through a bond or note issue by it);

-- or --

**Scenario 2.**

(a) the Authority receives a priority security interest third to Kimco and second to the parties secured under the Authority's Master Indenture related to the bonds issued by the Authority on behalf of Bayonne Medical Center (only to the extent that the security of those parties security is diminished in relation to their security on the bankruptcy filing date) on the mortgage and other security that secures the DIP loan;

(b) the bankruptcy court confirms IJKG, LLC as purchaser by Authority established deadline of no later than November 27, 2007;

(c) the purchaser agrees that it will assume the Authority loan, with the bankruptcy court's approval, under the same terms and conditions offered to BMC, with the addition of the security required by subsection (e) below;

(d) the purchaser is a "health care organization" as defined by the Authority's enabling statute and agrees to operate at least a substantial portion of the facility as a health care facility, including emergency services;

(e) the purchaser provides sufficient security for the loan in the form of a gross revenues pledge and/or a mortgage on all or a portion of the property,

(f) the purchaser is otherwise acceptable to the Authority, taking into consideration the purchaser's demonstrated ability to capitalize the acquisition of Bayonne Medical Center and the purchaser's demonstrated experience in operating a health care facility; and

(g) there are sufficient funds available, including the Authority's \$2.5 million loan, to continue the operations of Bayonne Medical Center through the projected date of acquisition by IJKG, LLC (any additional funds may come from funds provided by the purchaser, or funds provided by the City of Bayonne through a bond or note issue by it).

**BE IT FURTHER RESOLVED, That:**

- (a) the Executive Director of the Authority, with the advice of the Attorney General's office, is hereby authorized to determine whether or not IJKG, LLC is "acceptable to the Authority", and
- (b) the Chairman, Vice-Chairman, Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, Executive Director or Deputy Executive Director of the Authority are hereby authorized to execute and deliver on behalf of the Authority any document required to effectuate the loan transaction in forms satisfactory to the authorized officer and the Attorney General and upon receipt of such opinions and other documents as the Attorney General may require, and
- (c) the Authority delegates to the Executive Director the ability to rescind its authorization for the loan at any time between the date hereof and November 27, 2007 based on the Executive Director's determination, with the advice of the Attorney General's office, that IJKG, LLC will not have sufficient capital commitments necessary to complete the acquisition of Bayonne Medical Center and/or sufficient capital commitments necessary to fund the projected operational cash deficit of the hospital during its first six months of operations.



## **AB RESOLUTION NO. HH-78**

### ***RESOLUTION OF APPRECIATION***

***Fred M. Jacobs, M.D., J.D.***

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**WHEREAS**, Fred M. Jacobs was appointed Commissioner of the New Jersey Department of Health and Senior Services by Acting Governor Richard J. Codey in December 2004 and was confirmed in February 2005; and,

**WHEREAS**, Fred M. Jacobs has played an integral role in numerous health care initiatives in New Jersey, including the implementation of the Smoke Free Air Act and syringe exchange programs, the strengthening of New Jersey's ability to respond to a mass casualty event ranging from pandemic flu to a Jersey Shore hurricane, the promotion of stem cell research and humanism in medicine, and the reduction of health disparities for those in minority and multicultural communities; and,

**WHEREAS**, Fred M. Jacobs has been a dedicated leader on public health issues including fine-tuning and communicating best health care practices between hospitals and improving the quality of care provided by New Jersey's health network; and

**WHEREAS**, Fred M. Jacobs has promoted education extensively on awareness of and/or remedies against certain specific diseases such as post-partum depression, asthma and diabetes; and,

**WHEREAS**, Fred M. Jacobs, through his service on the *Commission on Rationalizing New Jersey's Health Care Resources*, worked to develop a comprehensive plan to chart the future course of New Jersey's health care network; and,

**WHEREAS**, Fred M. Jacobs, during his tenure as Commissioner of Health and Senior Services, also served as Chairman of the New Jersey Health Care Facilities Financing Authority; and,

**WHEREAS**, Fred M. Jacobs has been an active Chairman of the Authority, demonstrating initiative and leadership "to ensure that all health care organizations have access to financial resources to improve the health and welfare of the citizens of the state"; and,

**WHEREAS**, Fred M. Jacobs focused the Authority's attention on the need to provide aid to New Jersey's most troubled hospitals in order to maintain the provision of health care in communities where hospitals may otherwise have to close; and,

**WHEREAS**, Fred M. Jacobs chaired the Authority's two-day June 2007 retreat in which Members and staff looked internally to update and amend numerous Authority policies, thereby modernizing the Authority's practices and simplifying the Authority's burden on borrower's and bondholders alike; and,

**WHEREAS**, the Authority wishes to acknowledge Fred M. Jacobs' dedicated leadership of the Authority and the New Jersey health care organizations which it serves;

**NOW, THEREFORE, BE IT RESOLVED**, that the New Jersey Health Care Facilities Financing Authority hereby expresses its heartfelt appreciation to Fred M. Jacobs for his contributions to the Authority and citizens of New Jersey; and

**BE IT FURTHER RESOLVED**, that the Authority extends its best wishes to Fred M. Jacobs and wishes him much success going forward as he moves on from his post as Commissioner; and,

**BE IT FURTHER RESOLVED**, that a copy of this Resolution of Appreciation be presented to Fred M. Jacobs as a tribute from the Authority for his dedication and service to the Authority and its accomplishments under his leadership.